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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,491	03/10/2004	Krisztian Kiss	042933/273086	5661
826	7590	06/25/2009		
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER CONTEE, JOY KIMBERLY	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 06/25/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/797,491

**Applicant(s)**

KISS ET AL.

**Examiner**

JOY K. CONTEE

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/25/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14 is/are allowed.
- 6) ☒ Claim(s) 15-19 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

1. Applicant's arguments filed 3/25/09 have been fully considered but they are not persuasive. Applicant argues that Zhao fails to disclose wherein the apparatus initiates a data session with the apparatus to direct the other apparatus to establish a data session with the apparatus to enable the other apparatus to receive the push content. Examiner disagrees. The Processor 300 in Zhao sends out a Data Active Message to all push servers via transceiver interface 306 and the Internet on behalf of the wireless data device 10, hence all push servers begin serving the wireless data device 10 by pushing data traffic onto the wireless network (see Page 3 [0044] and see Fig. 3 and Fig. 8).

### ***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 15-19 and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhao et al. (Zhao), US 2008/0153500.

Regarding claims 15 and 22 Zhao discloses an apparatus (and method and terminal) for pushing content to a terminal located within a mobile network or a private network, the system comprising:

a network node (i.e., processor 300, Fig. 4) located across a public network (i.e., Internet) from the network including the terminal (i.e., wireless device), wherein the network node is configured to subscribe to a push service on behalf of the terminal such that the network node is also configured to receive push content in accordance with the

push service (reads on data active message going out to push servers via transceiver interface and internet) (see page 3 [0039,0040,0044]),

wherein the network node is thereafter configured to establish a network-initiated data session with the terminal, and wherein the network node is further capable of registering the terminal in response to the network-initiated data session such that the terminal is capable of receiving the push content based upon the registration (page 3 [0042,0044]).

Regarding claim 17, Zhao discloses a terminal according to claim 15, wherein the controller is capable of subscribing to the push service based upon the registration, and wherein the controller is capable of receiving the push content based upon subscribing to the push service from the terminal(see page 3 [0039,0040,0044]).

Regarding claims 18 and 23, Zhao discloses a terminal according to claim 15, wherein the controller is capable of receiving a trigger from the network node to the terminal independent of the public network to thereby establish a network-initiated data session and trigger the terminal to register with the network node (page 3 [0036]).

Regarding claim 19, Zhao discloses a terminal according to claim 15, wherein the controller is capable of sending a registration message to the network node across the public network to thereby identify the terminal across the public network such that the network node is capable of registering the terminal, and wherein the controller is capable of receiving the push content based upon the identity of the terminal across the public network(page 1 [0016]).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zhao, In view of Gielow et al. (Gielow), US Pub. No. 2005/0188406.

Regarding claim 16, Zhao discloses a system according to claims 1,8 and 15, respectively, wherein the network node is capable of receiving, but fails to explicitly disclose, thereafter storing in a buffer, the push content, and wherein the network node is capable of sending the push content to the terminal from the buffer.

In a similar field of endeavor, Gielow discloses thereafter storing in a buffer, the push content, and wherein the network node is capable of sending the push content to the terminal from the buffer (reads on the media gateway receiving feeds of media channels, buffering and caching the feeds) (see page 2 [0027]).

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify Zhao to include a buffer for the purpose of storing push content since it is known in the field of the art to store content.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zhao, in view of El-Beik et al. (El-Beik), US 2005/0117595.

Regarding claims 7,14 and 21, Zhao discloses the limitations of claims 1, 8 and 15 respectively, but fails to explicitly disclose wherein the network node comprises a Session Initiation Protocol (SIP) proxy.

In a similar field of endeavor, El-Beik discloses a delivery network that offers push service and other equipment such SIP proxy (see page 1 [0010]).

At time of the invention it would have been obvious to one of ordinary skill in the art to modify Zhao to use SIP proxy since it is known in the art that SIP proxy is known in the art for push services.

***Allowable Subject Matter***

7. Claims 1-14 are allowed.
8. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOY K. CONTEE whose telephone number is (571)272-7906. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571.272.7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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JC

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